

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

04 FEB 24 11:11:22  
CIV-21004  
WJP

TILIA INTERNATIONAL, INC.,  
a Delaware corporation,

Plaintiff,

v.

ZEROPACK CO., LTD.,  
a Korean corporation,

Defendant.

CASE NO:

MAGISTRATE JUDGE  
SNOW

**COMPLAINT FOR PATENT INFRINGEMENT  
DEMAND FOR JURY TRIAL**

Plaintiff Tilia International, Inc. ("Plaintiff" or "Tilia") hereby alleges for its Complaint against Defendant ZeroPack Co., Ltd. ("ZeroPack" or "Defendant"), on personal knowledge as to its own activities and on information and belief as to the activities of others, as follows:

**The Parties**

1. Tilia is a Delaware corporation with its principal place of business in San Francisco, California. Tilia is the world's leading provider of vacuum packaging systems and accessories. Tilia has invested significant resources in developing technology relating to its vacuum packaging systems and accessories, and has obtained various patents covering this technology.

2. ZeroPack is a Korean corporation with its principal place of business in Korea. ZeroPack is in the business of manufacturing and/or distributing vacuum packaging systems and accessories in competition with Tilia, and in violation of Tilia's patents.

**Jurisdiction and Venue Allegations**

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States.

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gp

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400, as this is a judicial district in which a substantial part of the events giving rise to the claims occurred.

**FIRST CAUSE OF ACTION**

(Infringement of U.S. Patent No. 4,941,310, 35 U.S.C. § 271)

5. Tilia repeats and re-alleges the allegations of Paragraphs 1 through 4 of its Complaint as if fully set forth herein.

6. Tilia is the sole owner and assignee of United States Patent No. 4,941,310, entitled Apparatus for Vacuum Sealing Plastic Bags, which issued on July 17, 1990, to Hanns J. Kristen (the “‘310 Patent”).

7. ZeroPack has infringed and is continuing to infringe the ‘310 Patent, in violation of 35 U.S.C. § 271, by making, using, importing, offering for sale and/or selling vacuum packaging systems that are covered by one or more claims of the ‘310 Patent, and by contributing to or inducing others to infringe this patent.

8. ZeroPack’s activities have been without express or implied license by Tilia.

9. ZeroPack continues to infringe the ‘310 Patent and, unless enjoined by this Court, will continue to infringe the ‘310 Patent, and Tilia has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Tilia is entitled to temporary, preliminary and/or permanent injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

10. As a result of ZeroPack’s infringement of the ‘310 Patent, Tilia has been and will be damaged, and is entitled to be compensated for such damages pursuant to 35 U.S.C. § 284 in an amount that cannot presently be ascertained, but that will be determined at trial.

11. Tilia is informed and believes that ZeroPack’s past and continuing infringement of the ‘310 Patent has been deliberate and willful, and that this case is therefore an exceptional case which warrants an award of treble damages and attorneys’ fees to Tilia in accordance with 35 U.S.C. § 285.

**SECOND CAUSE OF ACTION**

(Infringement of U.S. Patent No. RE 34,929, 35 U.S.C. § 271)

12. Tilia repeats and re-alleges the allegations of Paragraphs 1 through 4 of its Complaint as if fully set forth herein.

13. Tilia is the sole owner and assignee of United States Patent No. RE 34,929, entitled Plastic Bag for Vacuum Sealing, which originally issued on July 12, 1988, to Hanns J. Kristen (the “‘929 Patent”).

14. ZeroPack has infringed and is continuing to infringe the ‘929 Patent, in violation of 35 U.S.C. § 271, by making, using, importing, offering for sale and/or selling bags that are covered by one or more claims of the ‘929 Patent, and by contributing to or inducing others to infringe this patent.

15. ZeroPack’s activities have been without express or implied license by Tilia.

16. ZeroPack continues to infringe the ‘929 Patent and, unless enjoined by this Court, will continue to infringe the ‘929 Patent, and Tilia has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Tilia is entitled to temporary, preliminary and/or permanent injunctive relief against such infringement pursuant to 35 U.S.C. § 283.

17. As a result of ZeroPack’s infringement of the ‘929 Patent, Tilia has been and will be damaged, and is entitled to be compensated for such damages pursuant to 35 U.S.C. § 284 in an amount that cannot presently be ascertained, but that will be determined at trial.

18. Tilia is informed and believes that ZeroPack’s past and continuing infringement of the ‘929 Patent has been deliberate and willful, and that this case is therefore an exceptional case which warrants an award of treble damages and attorneys’ fees to Tilia in accordance with 35 U.S.C. § 285.

**Prayer for Relief**

WHEREFORE, Tilia requests that the Court enter judgment in its favor and against ZeroPack on its Complaint as follows:

A. Declaring that the '310 Patent is valid and enforceable, and that ZeroPack has infringed one or more claims of that patent;

B. Declaring that the '929 Patent is valid and enforceable, and that ZeroPack has infringed one or more claims of that patent;

C. Granting temporary, preliminary and permanent injunctive relief enjoining ZeroPack and its officers, agents, representatives, distributors, wholesalers, retailers, licensees, servants, employees, affiliates, parent or subsidiary corporations, attorneys, and all those in privity or acting in concert with ZeroPack, from further infringing, contributing to and/or inducing the infringement of the '310 Patent;

D. Granting temporary, preliminary and permanent injunctive relief enjoining ZeroPack and its officers, agents, representatives, distributors, wholesalers, retailers, licensees, servants, employees, affiliates, parent or subsidiary corporations, attorneys, and all those in privity or acting in concert with ZeroPack, from further infringing, contributing to and/or inducing the infringement of the '929 Patent;

E. Awarding damages to Tilia adequate to compensate Tilia for ZeroPack's acts of infringement, together with interest thereon, and an increase in the amount of damages to three times the amount found or assessed by this Court because of the willful and deliberate nature of ZeroPack's acts, as provided by 35 U.S.C. § 284, in an amount to be proven at trial;

F. Awarding Tilia's costs incurred in this action, together with reasonable attorneys' fees; and

G. Granting such other and further relief as this Court may deem just and proper.

**Demand for Jury Trial**

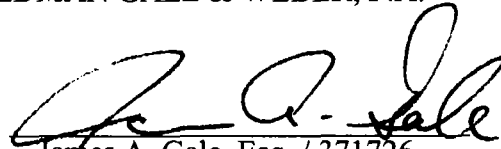
Plaintiff Tilia International, Inc. hereby demands a trial by jury of this action.

DATED: February 24, 2004

Respectfully submitted,

FELDMAN GALE & WEBER, P.A.

By:



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Stephanie C. Alvarez / 127280  
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-and-

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**Attorneys for Plaintiff  
TILIA INTERNATIONAL, INC.**

JS 44  
(Rev. 12/96)

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

TILIA INTERNATIONAL, A Delaware Corporation,

**DEFENDANTS**

ZEROPACK CO., LTD., a Korean Corporation

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT:  
(IN U.S. PLAINTIFF CASES ONLY)

Dade Co - 2004 33 CN WTC / US

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

James A. Gale/Stephanie C. Alvarez, Feldman Gale & Weber  
201 S Biscayne Blvd., 1920, Miami FL 33131

ATTORNEYS (IF KNOWN)

MAGISTRATE JUDGE  
SNOW

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>A PROPERTY RIGHTS</b> <input type="checkbox"/> 620 Copyrights <input type="checkbox"/> 640 Patent <input type="checkbox"/> 640 Trademark  <b>B SOCIAL SECURITY</b> <input type="checkbox"/> 661 HIA (1395ff) <input type="checkbox"/> 662 Black Lung (923) <input type="checkbox"/> 663 DIWC/DIWW (405(g)) <input type="checkbox"/> 664 SSID Title XVI <input type="checkbox"/> 665 RS (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 671 IRS - Third Party 28 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 610 Selective Service <input type="checkbox"/> 650 Securities/Commodities/Exchange <input type="checkbox"/> 675 Customer Challenge 12 USC 3410 <input type="checkbox"/> 681 Agricultural Acts <input type="checkbox"/> 682 Economic Stabilization Act <input type="checkbox"/> 683 Environmental Matters <input type="checkbox"/> 684 Energy Allocation Act <input type="checkbox"/> 685 Freedom of Information Act <input type="checkbox"/> 690 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 690 Constitutionality of State Statutes <input type="checkbox"/> 690 Other Statutory Actions A OR B
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**VI. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

35 USC § 271 - Patent Infringement

LENGTH OF TRIAL  
via 7 days estimated (for both sides to try entire case)

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  YES  NO

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE Alan S. Gold

DOCKET NUMBER 03-21237-CIV-GOLD

DATE

February 24, 2004

SIGNATURE OF ATTORNEY OF RECORD

*James A. Gale*

James A. Gale

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

\$10000 897103

APPLYING IFP

JUDGE

MAG. JUDGE

02/24/04